

INSTRUCTIONS

Collecting the Other Parent's Share of the Unreimbursed or Uninsured Health Care Expenses for Joint Children

Forms you may need:

- ✓ Instructions (Court Form FAM401)
- ✓ Affidavit of Health Care Expenses and Demand for Payment (Court Form FAM403)
- ✓ Notice of Intent to Collect Unreimbursed or Uninsured Health Care Expenses and Request for Payment (Court Form FAM402)
- ✓ Notice of Motion, Motion and Affidavit to Collect Unreimbursed or Uninsured Health Care Expenses (Court Form FAM404)
- ✓ Affidavit of Service by Mail (SOP104) or Affidavit of Personal Service (SOP102)

Important Notices and Resources:

The Court provides forms and instructions as a general guide to the court process. The instructions explain the steps and address common questions, but are not a comprehensive guide to the law.

You are responsible for your own case. Court employees can provide general information on court rules, procedures and practices but are prohibited from giving legal advice.

If you do not understand the forms and instructions, you may contact the MN Courts Self Help Center at www.mncourts.gov/selfhelp or by calling **651-259-3888**.

If you are not sure if you should file court papers or if you have questions not addressed in the instructions, you should talk to a lawyer. For lawyer referral information see www.mncourts.gov/selfhelp/?page=252.

Helpful materials may be found at your public county law library. For a directory, see <http://www.lawlibrary.state.mn.us/cllppubdir.rtf>. For more information, contact your court administrator or call the Minnesota State Law Library at 651-296-2775.

COLLECTING UNREIMBURSED or UNINSURED HEALTH CARE EXPENSES

Minn. Stat. § 518A.41, subd. 17

Use these forms if:

- You have a court order that requires the other parent to pay towards unreimbursed or uninsured medical or dental expenses for the joint child(ren), and
- The other parent has not paid those expenses.

Definition of terms:

Health care expenses

Include both medical and dental expenses of the joint child.

Joint child

The dependent child of both you and the other parent as listed in the child support order.

Uninsured health care expenses

Reasonable and necessary medical and dental expenses incurred if the joint child is not covered by a health plan, including over the counter medications.

Unreimbursed health care expenses

Reasonable and necessary medical and dental expenses not covered by the child's health plan, that include, but are not limited to, deductibles, co-payments, expenses for orthodontia and prescription eyeglasses and contacts. Unreimbursed medical expenses do not include the cost of premiums or over-the-counter medications.

INSTRUCTIONS

STEP 1

FILL OUT THE "AFFIDAVIT OF HEALTH CARE EXPENSES AND DEMAND FOR PAYMENT" FORM

1. Write your full name.
2. Write the Court File Number and county where your case is located. You can find this number on your existing court order.
3. Write the name of the other parent, the percentage of unreimbursed or uninsured health care expenses he or she is ordered to pay, and the percentage you are ordered to pay (the percentages should add up to 100%).
4. Itemize (list individually) the unreimbursed or uninsured health care expenses. All of the columns should be filled in. If you need more room, attach a separate piece of paper.

DO NOT INCLUDE the following:

- Amounts that an insurance company or a public health program (Medical Assistance or MinnesotaCare) paid,
 - Amounts the medical or dental provider billed to the other parent directly,
 - Amounts for your monthly premiums, co-pays for MinnesotaCare (or any other public health program), or expenses that are not reasonable or necessary medical or dental expenses as defined by law.
 - Amounts that are more than two years old at the time of your request.
5. Write the dates of the first and last expense (for example: January 23, 2010 *through* November 1, 2010), and write the total amount of the unreimbursed or uninsured health care expenses (the total from Question 5). **Remember, do not include expenses that are more than two years old.**
 6. Write the amount of unreimbursed or uninsured health care expenses you are required to pay, and write what the other parent's share is.
 7. If the other parent has paid you any amount toward the unreimbursed or uninsured health care expenses, write that amount in Question 7. If the other parent has not paid you any amount towards the expenses, write \$0.
 8. Write the total amount the other parent still owes you.
 9. You must attach copies of all bills, receipts, and insurance company Explanations of Benefits for the expenses you listed in Question 4.
 10. Sign the "Affidavit of Health Care Expenses and Demand for Payment" under penalty of perjury. By signing under penalty of perjury, you are stating that the information in the Affidavit is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth.

STEP 2

COMPLETE THE "NOTICE OF INTENT TO COLLECT UNREIMBURSED OR UNINSURED HEALTH CARE EXPENSES AND REQUEST FOR PAYMENT" FORM

This form tells the other party that you are requesting payment and what his or her rights are.

1. Write the name and address of the other party (the other party is the "non-requesting" party).
2. In the **Request for Payment** section, write the amount the other parent owes you for his or her portion of the joint child's unreimbursed or uninsured health care expenses. This is the same amount you wrote in paragraph 8 of the "Affidavit of Health Care Expenses and Demand for Payment."
3. Sign and date the bottom of the form, then print your address and phone number.

Note: If the Child Support Agency is involved in your case, you can use these forms to ask the other parent to pay you, or you can use similar forms published by the Department of Human Services.

STEP 3
MAKE COPIES OF THE FORMS

Make two copies of these documents (if the County Child Support Agency is involved in your case, make three copies):

- “Affidavit of Health Care Expenses and Demand for Payment,”
- “Notice of Intent to Collect Unreimbursed or Uninsured Health Care Expenses and Request for Payment,” and
- Copies of all bills, receipts and insurance Explanations of Benefits.

Keep one copy for your records. Keep the original “Affidavit of Health Care Expenses and Demand for Payment” in case you serve and file a motion later.

STEP 4
**HAVE COPIES OF THE FORMS AND SUPPORTING DOCUMENTS SERVED ON
THE OTHER PARENT**

Mail the following documents to the other parent (to the most current address you know, or to the last known address in the Court file):

- A copy of the “Affidavit of Health Care Expenses and Demand for Payment”,
- **Copies** of all bills, receipts, and the Explanations of Benefits you received from the insurance company, and
- The “Notice of Intent to Collect Unreimbursed or Uninsured Health Care Expenses and Request for Payment.”

You are allowed to mail these documents yourself.

STEP 5
WAIT 30 DAYS

If the other parent has not paid the requested amount or if the two of you cannot agree on a payment schedule within 30 days, what happens after the 30 days have passed depends on whether the County Child Support Agency is involved in your case.

► ***If the Child Support Agency IS involved in your case***, you can send your case worker the following documents:

- A **copy** of the “Affidavit of Health Care Expenses and Demand for Payment,”

- A **copy** of the “Notice of Intent to Collect Unreimbursed or Uninsured Health Care Expenses and Request for Payment,” and
- **Copies** of bills, receipts, and Explanations of Benefits you received from the insurance company.

The Child Support Agency can do the following:

- Notify the other party to pay the debt in full or file a motion with the court to contest the amount,
- Add the requested amount to the child support account for enforcement, and
- Use all appropriate enforcement remedies to try to collect the amount.

If you have questions about enforcement remedies, contact your local Child Support Agency.

If you send your documents to the Child Support Agency, the agency will handle things for you; Steps 6 through 12 below DO NOT APPLY and you will not use the Notice of Motion form or the Affidavit of Service form.

If the County Child Support Agency is involved in your case, but you prefer to serve and file a motion on your own, then instead of submitting the documents to the Child Support Agency, you can follow the steps below.

► ***If the Child Support Agency IS NOT involved in your case***, you can serve and file a motion asking the court to order that the other party pay you the amount owed or to enter a money judgment against the other party. Follow the steps below.

STEP 6

FILL OUT THE “NOTICE OF MOTION, MOTION AND AFFIDAVIT TO COLLECT UNREIMBURSED OR UNINSURED HEALTH CARE EXPENSES” FORM

The information to fill in the boxes and blanks at the top of the form can be found at the top of your current child support order or your divorce or paternity decree, including:

- The county where your case is located (which may be different from the county where you live).
- The number of the judicial district.
- The court file number.
- The name of the Petitioner/Plaintiff.
- The name of the Respondent/Defendant.

If you are the Petitioner/Plaintiff in the current order or decree you will be the Petitioner/Plaintiff in this motion. If you are the Respondent/Defendant in the current order or decree you will be the Respondent/Defendant in this motion.

Fill in the name and last known address of the other party. *If the County Child Support Agency is involved in your case*, then you should check the box next to “County Attorney’s Office” and fill in the name and address of the County Attorney for the county where your case is located.

DO NOT fill in the date, time, and location of the hearing. You will fill in this information as part of Step 7 below.

MOTION

1. For paragraph 1, write in the amount the other parent owes you for his or her share of the joint child’s unreimbursed or uninsured medical and dental expenses.
2. Put in the date that you want the other parent’s share of the unreimbursed or uninsured medical and dental expenses to be paid by.
3. Write the same amount you wrote in paragraph 1.
4. You do not have to write anything for this paragraph.

NOTE: If the Court orders the other party to pay, you might not get money directly. Minn. Statute § 518A.41, subd. 18, sets out how the reimbursement should be paid. For example, the amount that is owed to you might be offset from child support.

NOTICE OF RIGHTS TO THE OTHER PARTY – You do not have to do anything in this section; this is information for the other party.

SETTLEMENT – If you are willing to settle this matter without a court hearing, you can let the other party know by including your name and phone number in this section. Keep in mind that all parties, including the county attorney if the County Child Support Agency is involved in your case, must agree in order to settle the case out of court.

AFFIDAVIT

Underneath “State of Minnesota,” next to “County of,” fill in the name of the county where you will be when you sign the Affidavit.

1. Write in the date you sent the other party the “Notice of Intent to Collect Health Care Expenses and Request for Payment,” “Affidavit of Health Care Expenses and Demand for Payment,” and copies of bills, receipts, and Explanations of Benefits you received from the insurance company (“supporting documents”).
2. You do not have to write anything for paragraph 2; however, you need to attach a copy of all of the documents you sent to the other party (“Notice of Intent to Collect Health Care Expenses and Request for Payment,” “Affidavit of Health Care Expenses and Demand for Payment,” and copies of the supporting documents) to your motion.
3. Write in the amount of reimbursement the other party owes you and the dates of service for the first and last expense (for example: January 23, 2010 through November 1, 2010).
4. Look at the date you mailed the “Notice of Intent to Collect Unreimbursed or Uninsured Health Care Expenses and Request for Payment.” Count forward 30 days, and write that date in

paragraph 4. For example, if you mailed the papers to the other party on Jan. 15, then 30 days later would be Feb. 14.

5. If the other parent has paid you anything toward reimbursement since you sent him/her the “Notice of Intent to Collect Unreimbursed or Uninsured Health Care Expenses and Request for Payment,” write in that amount. If the other parent has not paid you anything, write \$0.

6. Write in the total amount the other parent still owes you.

7. If there is any other information you believe would be helpful for the Court to know regarding this issue, write it at paragraph 7. If you need more room, attach an additional sheet of paper.

8. Sign the “Notice of Motion, Motion, and Affidavit to Collect Unreimbursed / Uninsured Health Care Expenses” under penalty of perjury. By signing under penalty of perjury, you are stating that the information in the Motion and Affidavit is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

STEP 7

OBTAIN A HEARING DATE, TIME, AND LOCATION FROM COURT ADMINISTRATION

- Contact the court administrator's office in the county where your case is located.
- Ask for a hearing date, time, location of the hearing, and the name of the judge, referee, or child support magistrate who will hear the matter. The hearing date must be at least 17 days after the date the motion papers will be mailed to the other party. Count the day after it will be mailed as Day 1.
- Fill in the date, time, and location of the hearing on the first page of your “Notice of Motion, Motion and Affidavit to Collect Unreimbursed or Uninsured Health Care Expenses” form.

STEP 8

MAKE COPIES OF FORMS

- Make two copies of the completed “Notice of Motion, Motion and Affidavit to Collect Unreimbursed or Uninsured Health Care Expenses” form **and** two copies of all of the documents you previously sent to the other party (“Notice of Intent to Collect Health Care Expenses and Request for Payment,” “Affidavit of Health Care Expenses and Demand for Payment,” and copies of the supporting documents). **NOTE:** If the County Child Support Agency is involved in your case, you will need to make a total of three copies of these documents.
- Keep one copy of each form and one copy of all supporting documents for yourself (remember to bring your copies with you to court on the day of your hearing).

STEP 9

HAVE COPIES OF THE FORMS AND SUPPORTING DOCUMENTS SERVED ON THE OTHER PARTY AND COUNTY ATTORNEY'S OFFICE

You must arrange for the other party to receive complete copies of all forms and supporting documents you have prepared for the hearing. This is called “service of process.” You cannot serve the papers yourself. Someone else at least 18 years of age must serve the papers. **NOTE:** If the County Child Support Agency is involved in your case, you must arrange for the County Attorney's Office to be served as well.

A copy of the forms and supporting documents must be served upon all parties, either personally or by mail. If a party is represented by an attorney, the forms and supporting documents must be served on the attorney instead of the party, at the attorney's office.

Personal service: forms and supporting documents are hand-delivered to the other party personally or by leaving them at that party's place of residence with some person who is of suitable age or discretion who also lives at the same residence. Forms and supporting documents must be hand delivered at least 14 days before the hearing date.

Mail service: forms and supporting documents are mailed by first class U.S. mail to the other party at least 17 days before the hearing date.

If your forms and supporting documents are not timely served upon the other party (or his/her attorney), your motion may not be heard by the court.

NOTE! YOU CANNOT HAND DELIVER OR MAIL THE DOCUMENTS YOURSELF. YOU MUST HAVE SOMEONE ELSE OVER THE AGE OF 18 WHO IS NOT A PARTY TO THE CASE HAND DELIVER OR MAIL THE DOCUMENTS FOR YOU.

STEP 10

COMPLETE THE “AFFIDAVIT OF SERVICE” FORM

The person who hand delivers or mails the forms and supporting documents must fill out an “Affidavit of Service” form for each party served. After service is completed, the person signs the “Affidavit of Service” under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

STEP 11

FILE THE FORMS AND SUPPORTING DOCUMENTS WITH COURT ADMINISTRATION AND PAY ANY REQUIRED COURT FEE

File the following forms and supporting documents with court administration in the county where your case is located as soon as practical but no later than 5 days before the scheduled hearing:

- The “Notice of Motion, Motion and Affidavit to Collect Unreimbursed or Uninsured Health Care Expenses”
- The “Affidavit of Health Care Expenses and Demand for Payment”
- The “Notice of Intent to Collect Unreimbursed or Uninsured Health Care Expenses and Request for Payment”
- Copies of supporting documents (for example: bills, statements, etc.)
- The “Affidavit(s) of Service”

Filing by facsimile: Any paper may be filed with the court by fax. If documents are filed by fax, the original documents must not be filed, but you must keep all original documents and make them available to the court or any party upon request.

Court Fees

There is no fee for filing this motion. However, if you did not pay an initial filing fee when this case first began you must pay that fee now. Court administration will be able to tell you if you have paid the initial filing fee.

If a filing fee is owed and you cannot afford to pay the fee, you may qualify to have the filing fee waived by the court. You need to fill out a Fee Waiver (In Forma Pauperis) application (available from court administration or at www.mncourts.gov/forms) and have it reviewed by a judge. Court administration can tell you how to get your request to a judge. If the judge does not sign an order that waives the fee, you must be prepared to pay the fee. Court Administration cannot accept your filing without payment or an order waiving the fee.

STEP 12 APPEAR AT THE HEARING
--

Come to court on the date and time scheduled for the hearing allowing extra time for traffic, courthouse security, and finding the courtroom. Be sure to bring the papers you sent to the other party, and your copy of the “Notice of Motion, Motion and Affidavit to Collect Unreimbursed or Uninsured Health Care Expenses” and supporting documents. If you have additional documents to offer into evidence bring a copy for the judicial officer, one for the other parent, one for the county attorney, and one for yourself.